

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 27 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LTC (BVI) LIMITED,

Plaintiff-Appellee,

v.

BRAUNHAGEY & BORDEN LLP,

Defendant-Appellant.

No. 22-16252

D.C. No. 4:22-cv-03481-YGR

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Yvonne Gonzalez Rogers, District Judge, Presiding

Argued and Submitted July 12, 2023
San Francisco, California

Before: S.R. THOMAS, BENNETT, and H.A. THOMAS, Circuit Judges.

BraunHagey & Borden LLP appeals from the district court's order granting in part LTC (BVI) Limited's ("LTC") motion to remand in an action that BraunHagey removed from state court to federal court based on diversity jurisdiction.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

We have jurisdiction to decide whether we have jurisdiction. *United States v. Ruiz*, 536 U.S. 622, 628 (2002). In this case we do not. We lack jurisdiction over this appeal because the district court properly remanded the case pursuant to the forum-defendant rule, which is a “non-jurisdictional defect subject to the 30-day time limit imposed by [28 U.S.C.]§ 1447(c).” *Lively v. Wild Oats Mkts., Inc.*, 456 F.3d 933, 942 (9th Cir. 2006). The district court had the authority to remand because LTC properly moved to remand “within 30 days after the filing of the notice of removal.” 28 U.S.C. § 1447(c); *see id.* § 1447(d) (stating that, absent an exception inapplicable here, “[a]n order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise”); *Thermtron Prods., Inc. v. Hermansdorfer*, 423 U.S. 336, 346 (1976) (holding that “only remand orders issued under § 1447(c) and invoking the grounds specified therein . . . are immune from review under § 1447(d)”), *abrogated on other grounds by Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706 (1996).

DISMISSED.¹

¹ Appellant’s request for judicial notice (Dkt. No. 24) is DENIED.